

Agenda Date: April 27, 2005  
Item Number: A6

**Docket: UT-050258**

Company Name: Qwest Corporation

Staff: Tom Wilson, Senior Telecommunications Analyst  
Bob Williamson, Utility Engineer III

Recommendation:

Allow the petition for competitive classification of digital business switched and private line services in specified wire centers in Docket UT-050258 to go into effect as filed.

Background:

On February 17, 2005, Qwest Corporation (Qwest) filed a petition to classify its digital business switched and private line services as competitive pursuant to RCW 80.36.330. Qwest requests competitive classification of these services in specific geographic areas served by 58 wire centers in the following six competitive market areas: Seattle/Tacoma (38 wire centers), Spokane (7), Olympia/Longview (4), Vancouver (5), Pasco/Yakima (3), and Bellingham (1). The requested effective date is April 30, 2005, and ample notice has been provided to customers. The digital services in the petition include circuit switched exchange-type services (i.e., DSS, ISDN, UAS, and IT1), switched data transport services (i.e., Frame Relay and LAN Switching Service) and non-switched private line services (i.e., DDS, DS1, and DS3). Competitive Local Exchange Carriers ("CLECs") can provision competing service by utilizing their own electronic equipment and fiber optic distribution networks, and leased facilities (i.e., unbundled network elements ("UNEs")) or a combination of leased facilities and CLEC-owned facilities.

Discussion:

According to RCW 80.36.330, "effective competition" means customers of the service have reasonably available alternatives and the service is not provided to a significant captive customer base. The petition supplies information about the current market, identifying 13 companies offering competitive digital business and private line services in the relevant markets via unbundled network elements. Qwest indicates that numerous other entities including municipalities and Public Utility Districts, demonstrate the feasibility of building similar capacity over their own high capacity circuits. Various exhibits provide information on the number of competitors in each

affected wire center that are using Qwest unbundled network element services and their own facilities to make alternatives available. This information indicates that Qwest market share is trending downward and ranges in competitive market areas from 42% - 81%.

The petition shows there are not captive customers and there are diverse alternate providers ranging in size and offering equivalent or substitute services with a variety of options. Qwest also provided competitive fiber optic transmission facility maps showing that on average in the areas listed in the petition, competitors control about as much fiber network as does Qwest. The current rates for Qwest's digital business and private line services are supported by cost studies in other dockets demonstrating rates are above the costs of providing the service.

Stakeholders oppose Qwest's petition. They are concerned about the reduction to Qwest's unbundling obligations as a result of the most recent FCC unbundling order and judicial review of that order, and the availability of alternative facilities at cost-based rates. Furthermore, joint opposing comments filed by CLECs (Covad, Time Warner, and XO) also urge the Commission to deny any further competitive classification of services proposed by Qwest and alternatively immediately to investigate the impact of changes to the federal unbundling rules on the development of local exchange competition in Washington. Staff supports investigation of current competitive policy issues affecting CLECs. However, Staff recommends a different proceeding as the vehicle for such a process.

Conclusion:

Staff recommends that the Commission allow Qwest's petition for competitive classification of digital business and private line services in specified wire centers in Docket UT-050258 to go into effect as filed.